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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/528,170

02/01/2000

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S.4369

9405

466 7590 09/17/2007
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EXAMINER

O'CONNOR, GERALD J

ART UNIT

PAPER NUMBER

3627

MAIL DATE

DELIVERY MODE

09/17/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20070904

Application Number: 10/528,170
Filing Date: February 1, 2000
Appellant(s): Ferenczi et al.

MAILED

SEP 17 2007

GROUP 3600

Thomas W. Perkins
(Reg. No. 33,027)
For Appellant

EXAMINER'S ANSWER

This examiner's answer has been prepared in response to appellant's brief on appeal
filed May 7, 2007.

(1) *Real Party in Interest*

A statement identifying by name the real party in interest is contained in the brief.

(L'Air Liquide, Societe Anonyme pour L'Etude et L'Exploitation des Precedes Georges Claude, of Paris, France.)

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(None.)

(3) *Status of Claims*

The statement of the status of claims contained in the brief is correct.

(Claims 25-28 are pending, rejected, and appealed.)

(Claims 1-24 have been cancelled.)

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(None.)

(5) *Summary of Claimed Subject Matter*

The summary of claimed subject matter contained in the brief is correct.

(6) *Grounds of Rejection to be Reviewed on Appeal*

The appellant's statement of the grounds of rejection to be reviewed on appeal contained in the brief is correct:

- I. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zekich (US 4,586,441), in view of McCarrick et al. (US 5,953,682).

(7) *Claims Appendix*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) *Evidence Relied Upon*

The following is a listing of the evidence (e.g., patents, publications, official notice, and admitted prior art) relied upon in the rejection of claims under appeal:

US 4,586,441	Zekich	5/1986
US 5,953,682	McCarrick et al.	9/1999

(9) *Grounds of Rejection*

I. Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zekich (US 4,586,441), in view of McCarrick et al. (US 5,953,682).

Zekich discloses an installation 10, comprising: a delimited storage zone 130, said storage zone 130 having a first access 112 that provides direct and simultaneous access to a plurality of locations (inherently) within the storage zone 130, and a first door 116 and a first lock 114 in said first access 112; a reader 140 for reading an identification medium as a person passes through said first access 112; a delimited access bay 30 providing access to said first access 112, said access bay 30 being adjacent to said storage zone 130 and having a second access 12, and a second door 16 and a second lock 14 in said second access 12; and, an authorization device 15 receiving information from a user desiring access to said storage zone 130 and determining whether the user is authorized to enter said storage zone, said authorization device 15 operating said first 114 and second 14 locks (see, for example, Fig. 6) and controlling said first 114 and second 14 locks so that said first 116 and second doors 16 are not open simultaneously (see, for example, column 2, line 7, as well as claim 18), but Zekich does not explicitly disclose that each location of the plurality of locations within the storage zone stores cylindrical containers, each container having an identification medium associated with it.

However, McCarrick et al. show an installation comprising a plurality of cylindrical containers, and each cylindrical container indeed has an identification medium associated with it.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have used the installation of Zekich to store cylindrical containers, each container having an identification medium associated with it, in accordance with the teachings of McCarrick et al., in order to secure the containers against loss or theft, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Regarding claim 26, the installation of Zekich further comprises in said access bay 30 a first device 100 for dispensing the identification medium, wherein said authorization device 15 controls said first device 100 to dispense the identification medium only when said first 116 and second 16 doors are closed.

Regarding claim 27, the installation of Zekich further comprises a terminal 94 that can determine a location of a container in the installation and of an identity of a user who moved the container to the respective location (for example, the container being carried by the user/person).

Regarding claim 28, the installation of Zekich further comprises an installation-wide positioning system, wherein the terminal 94 determines the location of the container based on the installation-wide positioning system and records movement of the container over time (see, for example, column 4, lines 56-60).

(10) Response to Argument

I. Claims 25-28 are unpatentable under 35 U.S.C. 103(a) for being obvious over Zekich (US 4,586,441), in view of McCarrick et al. (US 5,953,682).

A. Regarding the argument that the system of Zekich fails to comprise two zones, the system of Zekich indeed comprises two zones, the access bay and the secure zone beyond.

B. Regarding the arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

C. Regarding the argument that the system of Zekich would not work to control access to the storage zone (secure area), of course the system of Zekich would work to control access to the storage zone (secure area), since that is the entire express purpose of the disclosed system.

D. Regarding the argument that there is no motivation to modify the system of McCarrick et al. because the McCarrick et al. system already provides security for the cylinders, the argument is simply non-responsive to the applied rejection, which describes modification to the Zekich reference, based on the teachings of the McCarrick et al. reference, not the other way around.

E. Regarding the argument that the system of Zekich fails to comprise a first device for dispensing the identification medium because element 100 is a hand geometry reader, the hand geometry reader is used to initially create the ID, using the "enrollment" mode. See, for example, column 5, lines 16-22.

F. Regarding the argument that the system of Zekich fails to include a terminal that determines a respective location in which a respective container is stored and the identity of the person who moved the respective container to the respective location, the system of Zekich certainly can determine the locations of the various individuals, whether "in" or "not in" the secure area, and it certainly knows who went through the first access to get to the secure storage zone, since that is the entire express purpose of the system of Zekich.

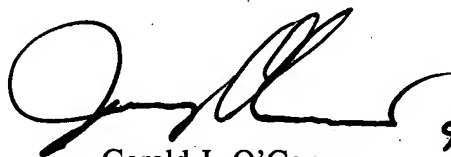
G. To the extent that appellant is arguing that the references applied in the rejection fail to use the same names for certain elements as the names used by applicant, the argument is irrelevant, as it is noted that the disclosure in a reference must show the claimed elements arranged in the same manner as in the claims, but need not be in the identical words as used in the claims in order to be anticipatory. See *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

(11) Related Proceeding(s) Appendix

No decision rendered by any court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For all of the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,



Gerald J. O'Connor
Primary Examiner
Group Art Unit 3627
9/4/07

GJOC

September 4, 2007

Appeal Conference Held:

F. Ryan Zeender 
Supervisory Patent Examiner
Group Art Unit 3627

Vincent Millin 
Supervisory Patent Examiner
Appeal Conference Specialist
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